

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
AUGUST 10, 2022**

**CALL TO ORDER
6:00 PM**

A meeting of the Flathead County Planning Board was called to order at 6:00 p.m. in 2nd Floor Conference Room of the South Campus Building, 40 11th Street West, Suite 200 Kalispell, Montana. Board members present were Sandra Nogal, Verdell Jackson, Kevin Lake, Buck Breckenridge, Greg Stevens, and Gary Votapka. Jeff Larsen and Elliot Adams had an excused absence and Tyler Hartz is no longer a member of the board due to the fact he has moved out of Flathead County. Erin Appert, Landon Stevens, Zachary Moon and Erik Mack represented the Flathead County Planning & Zoning Office.

There were approximately 30 members of the public in attendance and 21 that joined over Zoom.

**APPROVAL OF
MEETING
MINUTES
6:00 PM**

Breckenridge made a motion, seconded by Nogal, to approve the July 13, 2022, meeting minutes.

Motion passed 5-1 on a roll call vote, Lake abstained.

**PUBLIC
COMMENT ON
ITEMS NOT ON
THE AGENDA
(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)
6:02 PM**

William J. O'Haire, 101 Timber Lane, stated that on the 25th they were going to change the zoning on his lot ,282 and part of 281 to general business. He wanted to know what general business was.

Mack stated that B-2 (general business) allows for various commercial uses. He named some of the uses that were allowed in that zone.

O'Haire described where the properties were located.

There was discussion about which zone change he was speaking of, and Mack said that was a commissioner hearing and O'Haire should attend their meeting.

Dave Kauffman, 4600 Highway 40 W, commented that he found a discrepancy in the Flathead County Zoning Regulations (FCZR) that he felt needed to be addressed. He spoke about a neighboring property that was requesting a short-term rental and the fact that he was notified the application had been made. He then spoke to another neighbor that indicated the application had been withdrawn, but he then received information stating the permit was granted. He said that short-term rentals were against the covenants. In this specific case there are approximately 100 acres that are covered by these covenants, but since the law only requires the planning office to notify people within 150-feet of the property, none of the other people under

the covenants were notified. Consequently, the covenants had not been provided to the planning office, and he found out the only way to appeal the issued permit was to pay a \$450 fee to have the process reviewed. Section 5.11.040 FCZR has the applicant determine if they are in violation or compatible with the covenants. He felt that instead of notifying only the people within 150-feet of the property that's making the application on property that has covenants on it, all the individuals covered under those covenants should be notified. He felt an amendment to that particular section of the FCZR was needed.

Stevens stated that the Planning Board does not review conditional use applications for short-term rentals, that is the Board of Adjustment. The board does have the ability to look at regulations and make changes, but covenants are private agreements between individual landowners. They are not government policy, so Flathead County does not enforce covenants.

Kaufmann stated he was not asking the county to enforce covenants, he just felt that the county should notify all the properties where covenants fall as the 150-foot rule was not sufficient.

Mack said that staff was holding workshops with the Board of Adjustment regarding short-term rentals, and they can take a look at that when they update the regulations.

Stevens said he thought the 150-foot rule was in statute.

Breckenridge commented that there were so many varieties of covenants and understanding and/or interpreting them was difficult and the county doesn't have the ability to get into that.

Stevens said the County Planning Director had made a note of Kauffman's concerns.

**DISCLOSURE OF
ANY CONFLICT
OF INTERESTS
6:15 PM**

Breckenridge will recuse himself for agenda item #5, Antler Bluff 10B Amended.

**MIDWAY MM
INC., LLC
(FZC-22-13)
6:16 PM**

A zone change request from Midway MM Inc., with technical assistance from Sands Surveying, Inc. for property within the Happy Valley Zoning District. The proposal would change the zoning on three parcels located at 4899 Highway 93 S (assessor numbers 0644000, 0644050, 0902650) near Whitefish, MT from *B-1 (Neighborhood/Professional Business)* to *B-2 (General Business)*. The total acreage involved is approximately 1.46 acres.

STAFF REPORT
6:17 PM

Zachary Moon reviewed staff report FZC-22-13 for the board.

**BOARD
QUESTIONS**
6:19 PM

None

**APPLICANT
PRESENTATION**
6:19 PM

Donna Valade, 2 Village Loop, represented the applicant. She spoke about the traffic and the need to expand the building to better meet the needs of the customers. She also spoke of other properties in the area that are zoned B-2 (General Business).

Vic Workman, 1212 Kuhns Road, explained that he would like to add approximately 1200 square feet to his building. He addressed the comment letter received, speaking about the adjacent lot and the septic system. He is just wanting to add onto the east side of the building to better serve the community. He also spoke about traffic in the area and stated he cannot expand any further because of the septic.

**BOARD
QUESTIONS**
6:24 PM

None

**AGENCY
COMMENTS**
6:24 PM

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT**
6:25 PM

Christina DeLucia spoke in opposition of the application via Zoom.

**APPLICANT
REBUTTAL**
6:31 PM

Workman said he understands the worry about more traffic but the only way any of the buildings could be expanded was if the city of Whitefish were to bring out septic. They are extremely limited.

**STAFF
REBUTTAL**
6:32 PM

None

**BOARD
QUESTIONS**
6:32 PM

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-22-13)
6:32 PM**

Breckenridge made a motion, seconded by Lake, to adopt staff report FZC-22-13 as findings of fact.

**BOARD
DISCUSSION
6:33 PM**

Stevens stated the findings in the staff report looked good to him.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-22-13)
6:33 PM**

On a roll call vote, the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL TO
THE
COMMISSIONERS
(FZC-22-13)
6:33 PM**

Breckenridge made a motion, seconded by Jackson, to adopt staff report FZC-22-13 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION
6:34 PM**

Breckenridge commented that he understands the concerns about the traffic, and he has worked with the septic and DEQ side of permitting these applications. Commercial and mixing zones, it's a lot of effort to get those things approved.

Nogal said it was her understanding that regarding the expansion, when they have food service that is on septic, there are systems the DEQ requires, involving grease traps etc., there is only so much they can do on certain size septic systems without having redundant systems. With regard to septic, there is a limit. What Workman is trying to do, it simply can't go any further unless there is sewer. If someone purchased the lot in the future and wanted to do more, she would be very interested in a buffer being placed along Antelope Trail. She felt they were on the right track.

**ROLL CALL TO
RECOMMEND
APPROVAL TO
THE
COMMISSIONERS
(FZC-22-13)
6:36 PM**

On a roll call vote, the motion passed unanimously.

**JAMES & TRACY
LEE
(FZC-22-14)
6:37 PM**

A zone change request from James B. & Tracy D. Lee, with technical assistance from Sands Surveying, Inc. for property within the Airport Road Zoning District. The proposal would change the zoning on a parcel of land located at 2449 Airport Road, Kalispell, MT from *SAG-10 (Suburban Agricultural)* to *R-2.5 (Rural Residential)*. The total acreage involved in the request is approximately 5 acres

**STAFF REPORT
6:38 PM**

Erin Appert reviewed staff report FZC-22-14 for the board.

**BOARD
QUESTIONS
6:39 PM**

None

**APPLICANT
PRESENTATION
6:39 PM**

Donna Valade, Sands Surveying, 2 Village Loop represented the applicants. She stated the applicants are looking ahead to the future and estate planning for their daughter. They would like the possibility to split the current five-acre lot to create one additional lot. She spoke about the traffic in the area and said the property is located within the city of Kalispell Growth Policy area and is designated suburban residential.

James Lee, 2449 Airport Road, said they would like to have a place for their special needs daughter. He spoke about their original plan of dividing the land, but now their son would like to live on the land to help.

Stevens mentioned there is a provision in the zoning regulations for an accessory dwelling unit (ADU).

Lee said that would help for a professional caretaker, but his son needs a separate lot to build his home on.

**BOARD
QUESTIONS
6:45 PM**

None

**AGENCY
COMMENTS
6:45 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT
6:45 PM**

None

APPLICANT REBUTTAL 6:45 PM	None
STAFF REBUTTAL 6:45 PM	None
MAIN MOTION TO ADOPT F.O.F. (FZC-22-14) 6:45 PM	Lake made a motion, seconded by Jackson, to adopt staff report FZC-22-14 as findings of fact.
BOARD DISCUSSION 6:45 PM	Stevens said when he looked at the map, he originally thought it might be spot zoning. He spoke to staff, and they alleviated that concern because the proposal met all three elements, and they are not changing the use.
ROLL CALL TO ADOPT F.O.F. (FZC-22-14) 6:46 PM	Motion passed unanimously on a roll call vote.
MAIN MOTION TO RECOMMEND APPROVAL (FZC-22-14) 6:47 PM	Lake made a motion, seconded by Jackson, to recommend approval of FZC-22-14 to the Board of County Commissioners.
BOARD DISCUSSION 6:47 PM	None
ROLL CALL TO RECOMMEND APPROVAL (FZC-22-14) 6:47 PM	Motion passed unanimously on a roll call vote.
SCHRADE ROAD SUBDIVISION (FPP-22-09) 6:47 PM	A request from Sands Surveying, Inc., on behalf of Brian W. & Crystal L. Ray, for preliminary plat approval of Schrade Road Subdivision, a proposal to create four (4) residential lots on 21.376 acres. The proposed lots would be served by individual wells and septic systems. The property is located along Schrade Road, Kalispell, MT in the Highway 93 North Zoning District and is zoned SAG-5 (Suburban Agricultural).

STAFF REPORT
6:48 PM

Landon Stevens reviewed staff report FPP-22-09 for the board.

**BOARD
QUESTIONS**
6:49 PM

Board member Stevens commented that the staff report states it 'generally' meets all the criteria for a variance, but it specifically does not meet all the requirements for a variance.

Staff member Stevens said that is the language they tend to use. Going through the variance requirements, arguments can be made potentially against it. As far as the items that are required to be met, he felt they generally meet the standards.

Board member Stevens stated they have to meet all of the criteria and he couldn't justify that they do.

Staff member Stevens said the applicant may be able to clarify.

**APPLICANT
PRESENTATION**
6:53 PM

Donna Valade, Sands Surveying, 2 Village Loop, represented the applicants. She spoke about the septic and wells and mentioned they are requesting a variance for paving the road. She gave a brief history of the property and spoke about the surrounding properties that had requested, and were approved, for a variance for paving. There is a precedence set in this area in regard to variances for paving.

**BOARD
QUESTIONS**
6:55 PM

Nogal asked if the county is supposed to pave Schrade Road at some point.

Valade said ultimately in the future if there is enough traffic on it. There is a condition in the staff report that if the variance is granted, they will participate in the dust cost share program. She said there is not a lot of traffic on Schrade Road, and the dust cost share would be a compromise.

Voatpka asked when that would kick in.

Valade said that would be a requirement of final plat. It would be up to each individual subdivision that came before the board whether or not they participate in the cost share program.

**AGENCY
COMMENTS**
6:57 PM

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT**
6:57 PM

Elaine Johnson, 525 Schrade Road, spoke in opposition of the application via Zoom. She was concerned about setbacks and water flow to her property. She was also concerned about the traffic and dust on the road.

**APPLICANT
REBUTTAL
7:04 PM**

Brian Ray, the applicant, clarified that the subdivision was not going to be eight lots. He gave the history of the property and what they were proposing. He spoke about the variance they were requesting and pointed out the roads on the map. He felt it was consistent with the county roads in the area.

**STAFF
REBUTTAL
7:07 PM**

Staff member Stevens said the property directly to the east, same property owner, is 18 ½ acres and has preliminary plat approval for a three-lot subdivision. It may be seven lots total eventually, and he factored that in his review.

Breckenridge asked for clarification on the traffic count.

Staff member Stevens clarified.

Board member Stevens asked staff a procedural question regarding the variance.

Mack stated there was a finding for the variance, but the board could do a subsequent motion to amend the findings for the variance.

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-22-09)
7:10 PM**

Nogal made a motion, seconded by Votapka, to adopt staff report FPP-22-09 as findings of fact.

**BOARD
DISCUSSION
7:11 PM**

Board member Stevens stated that the subdivision regulations were quite specific. He said that Valade mentioned precedent because the board has been approving variances. He felt that if the board were going to keep approving subdivisions on county roads, he thought it was time to have them do some paving. The variance criteria are quite specific and if the applicant can't meet them, they don't get a variance.

Breckenridge agreed. He felt they keep kicking the can down the road.

Nogal agreed. She didn't see a hardship.

Lake agreed. He also didn't see a hardship.

Jackson agreed, stating he couldn't base his decision on what might happen, he had to take it as it was.

Votapka agreed as well and stated there were reasons for an exception and if there were no clear reasons, the board should not be approving variances.

**MOTION TO
AMEND F.O.F #18
(FPP-22-09)
7:18 PM**

Stevens made a motion seconded by Nogal to amend finding-of-fact #18 to read:

The variance requested by the applicant does not appear to adequately address items two (2) and three (3) of the review criteria.

**ROLL CALL TO
AMEND F.O.F #18
7:18 PM**

On a roll call vote the motioned passed 5-1 with Jackson dissenting.

**BOARD
DISCUSSION
7:18 PM**

None

**ROLL CALL TO
ADOPT F.O.F.
(FPP-22-09)
7:18 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL WITH
DENIAL OF THE
VARIANCE
(FPP-22-09)
7:19 PM**

Breckenridge made a motion, seconded by Nogal, to recommend approval of FPP-22-09, with a denial of the variance, to the Board of County Commissioners.

**BOARD
DISCUSSION
7:20 PM**

None

**ROLL CALL TO
RECOMMEND
APPROVAL WITH
DENIAL OF THE
VARIANCE
(FPP-22-09)
7:20 PM**

Motion passed unanimously on a roll call vote.

**CANYON CREEK
ESTATES
(FPP-22-14)
7:20 PM**

A request from Sands Surveying, Inc. and 406 Engineering, on behalf of Wally Wilkinson, representing Rogers Lake, LLC, for preliminary plat approval of Canyon Creek Estates, a proposal to create 15 residential lots on 100.1 acres. The proposed lots would be served by individual septic systems and individual and shared wells. The properties are located on the north side of Rogers Lake Road, approximately 0.9 miles south of Highway 2 and are unzoned.

STAFF REPORT
7:21 PM

Zachary Moon reviewed staff report FPP-22-14 for the board.

**BOARD
QUESTIONS**
7:24 PM

None

**APPLICANT
PRESENTATION**
7:25 PM

Donna Valade, Sands Surveying, Inc., 2 Village Loop represented the applicant. She agreed with the staff report.

**BOARD
QUESTIONS**
7:26 PM

Breckenridge spoke to finding # 4 regarding paving, it didn't match the report.

Mack said the change had been made.

Votapka spoke to finding #3 and the road department comments regarding an approach permit.

Breckenridge said they would discuss that when they are at that point in the meeting.

**APPLICANT
PRESENTATION
(continued)**
7:29 PM

Wally Wilkinson, 1328 River Horse Court, stated he was one of the partners of Rogers Lake, LLC. He commented they were trying to make a nice subdivision that would be secluded with the trees. He said they would pave the road; they wanted to do it right and be a good neighbor.

He addressed the public comment, stating they were not part of the Rogers Lake Association and clarified their position on paving the road.

**AGENCY
COMMENTS**
7:31 PM

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT**
7:32 PM

Don Roe, 1415 Rogers Lane, spoke in opposition of the application. He was concerned about dust and traffic.

Leslie Mulcahy, 1360 Roger Lake Road, was not in favor or opposition of the application. She was concerned about the dust, water, and fire suppression.

Kerry Johnston, 1143 Rogers Lake Road, spoke in opposition of the application. He was concerned about the traffic and the roads. He felt the road should be gravel because of the ice and snow. He also commented about driveways, paving, fire suppression, taxes, and water flow.

Cody Jensen, 406 Engineering, 35 8th Street East, represented the applicants. He spoke about their submission to DEQ for the non-degradation. It has been approved.

Leslie Johnston, 1143 Rogers Lake Road, said that Wilkinson had been great at helping to maintain the road during both the winter and summer months. She asked about internet access.

**APPLICANT
REBUTTAL
7:57 PM**

Wilkinson spoke about the paving, they had spoken to the road department, and they were going to continue the paving on Rogers Lake Road, not in front of the subdivision.

Valade addressed the concerns about the riparian protection and the fire suppression plan.

**STAFF
REBUTTAL
7:59 PM**

Mack said our office isn't too concerned about where the paving takes place on the road. He spoke about the road departments request and the cost of maintenance of the road.

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-22-14)
8:00 PM**

Breckenridge made a motion, seconded by Nogal, to adopt staff report FPP-22-14 as findings of fact.

**BOARD
DISCUSSION
8:00 PM**

None

**ROLL CALL TO
ADOPT F.O.F.
(FPP-22-14)
8:01 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FPP-22-14)
8:01 PM**

Nogal made a motion, seconded by Jackson, to recommend approval of FPP-22-14 to the Board of County Commissioners.

**BOARD
DISCUSSION
8:01 PM**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-22-14)
8:01 PM**

Motion passed unanimously on a roll call vote.

**THE BOARD
TOOK A SHORT
RECESS
8:02 PM**

**ANTLER BLUFF
10B AMENDED
(FPP-22-15)
8:13 PM**

A request from John Ray, with technical assistance from Breckenridge Surveying and Mapping, PLLC, for preliminary plat approval of Antler Bluff 10B Amended, a proposal to create two (2) residential lots on 4.88 acres. The proposed lots would be served by individual wells and septic systems. The property is located at 520 and 590 Antler Bluff near Columbia Falls, MT and is unzoned.

**STAFF REPORT
8:13 PM**

Erin Appert reviewed staff report FPP-22-15 for the board.

**BOARD
QUESTIONS
8:14 PM**

None

**APPLICANT
PRESENTATION
8:14 PM**

Rick Breckenridge, 2206 Hwy 2, represented the applicants. He spoke about the subdivision being a product of four subdivisions. He spoke about the roads that are already paved. There was nothing unusual, it's a pretty straight forward proposal.

**BOARD
QUESTIONS
8:16 PM**

None

**AGENCY
COMMENTS
8:16 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT
8:16 PM**

Stan Watkins, 750 Shadow Lane, spoke in opposition of the application. He was hoping to delay the application before they approve the subdivision. They do not have covenants, road agreements etc. They would like it to be delayed so those issues can be addressed. He commented that he had been trying to get his well dug for over 10 years. He gave a brief history of the development and stated the developer had not done what he said he would do.

**APPLICANT
REBUTTAL
8:22 PM**

Breckenridge stated there were four different subdivisions and this particular one does have covenants that were submitted with the application. There is also a road maintenance agreement, and the neighbors can join in if they choose to.

**STAFF
REBUTTAL
8:24 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-22-15)
8:24 PM**

Lake made a motion, seconded by Jackson, to adopt staff report FPP-22-15 as findings of fact.

**BOARD
DISCUSSION
8:24 PM**

Stevens commented that the board shouldn't insert themselves into the process that Watkins brought up.

Votapka asked about the current covenants and road agreement.

Stevens said those are private.

Mack commented that his understanding was that there was not a road users' agreement or covenants recorded with the original subdivision. There is nothing in place.

Jackson stated this was an improvement and could be the starting point for all the other problems.

**ROLL CALL TO
ADOPT F.O.F.
(FPP-22-15)
8:27 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FPP-22-15)
8:27 PM**

Nogal made a motion, seconded by Jackson, to recommend approval of FPP-22-15 to the Board of County Commissioners.

**BOARD
DISCUSSION
8:28 PM**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-22-15)
8:28 PM**

Motion passed unanimously on a roll call vote.

**THE STORY
(FPP-22-17)
8:28 PM**

A request from The Standard Development, LLC for preliminary plat approval of a 16-unit condominium to be known as The Story. The proposal would be served by public water and sewer. The property is located at 3854 Winter Lane, Whitefish, MT and is unzoned. The parcel is 0.333 acres.

**STAFF REPORT
8:29 PM**

Erik Mack reviewed Staff Report FPP-22-17 for the Board.

**BOARD
QUESTIONS
8:30 PM**

Breckenridge asked about snow removal and parking.

Mack said the subdivision regulations don't address snow removal, and they don't regulate the parking spaces because it's not zoned.

Jackson asked how they would fit 16 units on 1/3 acre.

Mack said it's going to be a tall building and the applicant would address that.

**APPLICANT
PRESENTATION
8:31 PM**

Dom Goble, Morrison-Maierle, 172 Timberwolf Parkway, represented the applicants. He spoke about the parking being underground so it wouldn't impede the roadway. They will have an off-site staging area during construction. They have conducted a geo-technical investigative report and they have a design team. They will connect to Big Mountain Water and Sewer. They also spoke to the Big Mountain fire chief and elaborated. The building, with underground storage will be 10 stories tall.

**BOARD
QUESTIONS
8:33 PM**

Breckenridge asked how many parking spaces they would have.

Goble stated there would be 16 underground and an additional 6 outside.

The Board and Goble discussed the parking spaces, the storm drain area and the setbacks.

**AGENCY
COMMENTS
8:38 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENTS
8:38 PM**

David Husk, 3852 Winter Lane, spoke in opposition of the application. He was concerned about the removal of trees, snow removal, and traffic. He commented about the runoff and the grading of the property.

Cliff Haden, 913 Wisconsin, Ste 101, represented Shaw-Moran, LLC and Suzanne Rohde, 3861 and 3870 Winter Lane. He spoke about the safety issues this will create and the additional encroachment. He pointed out the right of way on the dedicated public road. He also pointed out the additional developments in the area. He said there is not a turnaround as the original subdivision was platted in 1963. There isn't anywhere to put a cul-de-sac, or a hammerhead turn around, so every foot that you take out of the road is a space that's really needed for safety. It is a 20-foot road surface which is not a lot of room to turn a fire truck around. He spoke about the setbacks and the safety issue with the road and fire suppression. He also commented about snow removal, parking and it being a high traffic area. They object to the proposal as is.

Stevens pointed out that the outline of the property may or may not be the actual property lines.

Haden said the county allowed the encroachment. There was an abandonment by the county after the fact. He commended the applicants but felt they still have an issue.

David Keim, 309 Dancing Aspen Lane, spoke in opposition of the application. He was concerned about the condition regarding fire suppression. He spoke about parking and safety for the current residences. He would like the builders to come back after they've worked out how they are going to take care of the safety to the current residence there. He reiterated that he was concerned about the opportunity to short-term rent, the parking, snow removal and run-off.

Jackson asked if the building or the map was wrong.

Keim said The Lotus was too far out. Regardless, it is so close. He reiterated his concern regarding safety.

Francesca Reda, 3850 Winter Lane #4, spoke via Zoom, in opposition of the application. She was concerned about the sewer drain and all the concerns from the other residence. She was also concerned about the safety for the skiers, the water run-off, the impacts from the setbacks, and the traffic.

Jamie Hollensteiner, 3848 Winter Lane and 3846 Winter Lane spoke in opposition of the application. He was concerned about the traffic, trespassing, the density of the proposal, and the drainage. He agreed with the other speakers. He also spoke about height restrictions and the fire suppression.

**APPLICANT
REBUTTAL
9:02 PM**

Josh McKay, 305 Columbia, spoke about how they researched everything. They will park underground; the driveway will serve as a turn around. He spoke about the fire suppression system and access for the fire trucks. He commented that they will not accumulate snow as everything is heated. The roofs and the retention are underground. They have gone above and beyond what is required. They want to be good neighbors and do it right. The construction will be off-site. The parking will not encroach illegally. They followed the county's guidelines.

Stevens asked the applicant to address the stormwater drainage.

Husk said the stormwater will collect underground. The pipes will go underground along the driveway within the property. He also stated the building will be 20-feet from the property line. He spoke about parking in the area and pointed out the property line on the map showing the setbacks.

Stevens asked about the driveway being used as a turnaround for the fire trucks.

McKay said they gave them extra connections and went over and above what they asked for.

Breckenridge asked about the trees.

The applicants showed the board where the trees were located. They also stated they had done an environmental assessment as well as a community impact report.

Jackson asked if they will be rentals.

Husk said they will be purchased.

**STAFF
REBUTTAL
9:13 PM**

Mack said they do have a condition regarding fire and storm drainage that will have to be approved before they can go to final plat.

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-22-17)
9:14 PM**

Jackson made a motion, seconded by Votapka, to adopt staff report FPP-22-17 as findings of fact.

**BOARD
DISCUSSION
9:14 PM**

Stevens asked if the storm drainage system would have to get approved by DEQ before they could submit final plat.

Husk said they would have to work through that. They are going by their regulations and their standards for design and development.

Breckenridge commented that this is a significant precedent, a 10-story building. He felt the board could do it and that the applicants have put in a lot of work to make this work. He had a lot of reservations about a building that large on a lot this small in this area, given the access. He spoke about possible legal issues with the designated parking, the driveway, and the views.

The board spoke about the height of the building, safety issues with parking, and other buildings that have been there for quite a while.

Jackson commented that all his concerns had been answered.

**MOTION TO
AMEND F.O.F #4
9:33 PM**

Stevens made a motion seconded by Jackson to amend finding-of-fact #4 to read:

Ingress and egress adequacies are questionable because of the narrowness of existing rights-of-way and lack of off-site parking.

**ROLL CALL TO
AMEND F.O.F #4
9:33 PM**

On a roll call vote the motion passed unanimously

**ROLL CALL TO
ADOPT F.O.F.
(FPP-22-17)
9:34 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FPP-22-17)
9:36 PM**

Lake made a motion, seconded by Jackson, to recommend approval of FPP-22-17 to the Board of County Commissioners.

**BOARD
DISCUSSION
9:36 PM**

Lake said he was undecided. He wasn't comfortable punishing the applicant for past mistakes by others, they were trying to do it right and make a better system up there.

Stevens commented that the applicants had answered all the questions he had. They had given it a lot of thought and provided answers to those questions that were brought up during public comment.

Breckenridge spoke about the parking spaces in the driveway. The lack of access bothers him. He spoke about the turnaround for the fire truck being good, it just feels really tight.

Stevens wondered if the proposal was approved would that be a de-facto easement.

Mack said the road department had a process for encroachment permits onto their right-of-way. He suggested the board add a condition for that.

**MOTION TO ADD
CONDITION #16
(FPP-22-17)
9:41 PM**

Stevens made a motion seconded by Nogal to add condition #16 to read:

The developer must obtain an encroachment permit from the Flathead County Road and Bridge Department for the surface parking.

**ROLL CALL TO
ADD CONDITION
#16
(FPP-22-17)
9:41 PM**

On a roll call vote the motion passed 5-1 with Jackson dissenting.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-22-17)
9:42 PM**

On a roll call vote the motion passed 5-1 with Breckenridge dissenting.

**THE BOARD
TOOK A SHORT
RECESS
9:44 PM**

**WEST GLACIER
VISION PLAN
(FPMA-21-01)
9:47 PM**

A request by the Middle Canyon Land Use Advisory Committee for an amendment to the Flathead County Growth Policy, specifically to add the West Glacier Vision Plan as an addendum to the Canyon Plan which has been incorporated into the Flathead County Growth Policy.

**STAFF REPORT
9:48 PM**

Erik Mack reviewed Staff Report FPMA-21-01 for the Board.

**BOARD
QUESTIONS
9:49 PM**

None

**APPLICANT
PRESENTATION**

Monica Jungster, 535 Sloan Lane, said they were here a year ago and had taken the boards advice. She stated they had spoken to the Planning Director

9:49 PM

to reflect how the West Glacier Vision Plan was acceptable to the Growth Policy and M.C.A. Specifically private property rights and responsibilities of those, and the relationship to the non-regulatory Canyon Plan. She stated the board gave some good guidance. The vision plan came about because West Glacier is a community that is the final gateway to Glacier National Park. She introduced the representatives and said the vision plan would be an addendum to the Canyon Plan. There are five community groups within the area, and she spoke about those. She said they went through everything the board had pointed out a year ago, and they hope they had done what was needed.

Sharon Bengston, 204 Highland Blvd. said it is a diverse plan and through the process there were many different people that had worked hard to put together the plan. She commented that she hoped they had met the boards concerns. She commented that she had been working on the overpass that she feels is an eyesore. She said they worked on three different projects, the bike path, vegetation beautification, how to address the concrete and the paint, but that will take more years and more money. They were able to work together to come up with a plan and a solution.

**BOARD
QUESTIONS
9:56 PM**

None

**AGENCY
COMMENTS
9:56 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT
9:57 PM**

Mike Kopitzke, 1460 Grizzly Spur, spoke as a member of MCLUAC. He spoke about how the community had come together to address the concerns of the board. He urged the board to approve the plan. He commented that West Glacier is a unique community.

Mary T McClelland, 500 Sloan Lane, commented that it was a better document because of the planning boards input. She said it fits better and very clearly outlines the goals of the growth policy. She also spoke about private property rights and the goals that they addressed as a community.

**APPLICANT
REBUTTAL
10:02 PM**

None

**STAFF
REBUTTAL
10:02 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FPMA-21-01)**

10:02 PM

Nogal made a motion, seconded by Breckenridge, to adopt staff report FPMA-21-01 as findings of fact.

**BOARD
DISCUSSION
10:03 PM**

Stevens commented that West Glacier is in a very unique situation as far as land use regulations go in Flathead County or even in the country, because it is such a small area inundated with millions of people. From his viewpoint, he found the group to be very responsive to the boards concerns as to how to make this work. They did a lot of work to take the boards problems into consideration and make them their problems and come up with solutions for the board. He was happy with how it worked out.

Nogal commented that she sees a community that has taken everything to heart that the board had concerns about. They put themselves in a position that was at least defensible. It's not unambiguous, there is still a bit of a wish list feel to it. She spoke about traffic and read some comments that were received. The committee did a very good job. She asked staff where it would go from here.

Mack clarified.

Votapka complimented the committee, saying it's a helpful document because it helps frame their issues really well. It defines and helps outsiders understand what they are up against, and it gives, at least to him, sensitivities to issues he probably never even thought of before. He felt it was a really nice resource.

Jungster stated the vision plan was what she would call a first step. East Glacier definitely has the same problems. She spoke about Polebridge being another unique community and stated they are more than willing to share this document. She gave a brief history of the park visitors since she has lived there.

Jackson commented that he thought the committee's language was really good. He read a couple sections of the plan and said the way they had written it was really good. He hadn't read the entire document, but he would. He commended the committee.

**ROLL CALL TO
ADOPT F.O.F.
(FPP-22-17)
10:21 PM**

On a roll call vote the motion passed unanimously

**MAIN MOTION
TO AND ADOPT
THE
RESOLUTION
AND
RECOMMEND
APPROVAL
(FPMA-21-01)
10:24 PM**

Nogal made a motion seconded by Breckenridge to adopt a resolution to approve the West Glacier Vision Plan and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION
10:25 PM**

None

**MOTION TO
UNTABLE
(FZTA-21-01)
10:29 PM**

Nogal made a motion seconded by Breckenridge to untable FZTA-21-01

**ROLL CALL TO
UNTABLE
(FZTA-21-01)
10:29 PM**

On a roll call vote the motion passed unanimously.

**AMEND NORTH
FORK SECTION
3.40 OF FCZR
(FZTA-21-01)
10:29 PM**

A request by the North Fork Land Use Advisory Committee to amend Section 3.40 (NF North Fork) of the Flathead County Zoning Regulations (FCZR). The proposed changes are extensive in nature and the request is considered to be a complete rewrite of Section 3.40 (NF North Fork).

**STAFF REPORT
10:26 PM**

Erik Mack reviewed Staff Report FZTA-21-01 for the board.

**BOARD
QUESTIONS
10:31 PM**

None

**APPLICANT
PRESENTATION
10:31 PM**

Randy Kenyon, 77 Moose Creek Road, is a member of the North Fork Land Use Advisory Committee. He thanked the planning office and the board for their cooperation and assistance as they worked through and revised their text amendment after it had been tabled. Their input was invaluable. He read a statement he had prepared and spoke about the sub-committee working on the revisions then introduced a couple committee members that would be giving a brief overview of the changes.

Betsy Holycross, 13455 North Fork Road, spoke about the fact the original zoning regulations for the area were out of date. It was inconsistent with the North Fork Neighborhood Plan. They did a lot of community outreach. The planning board brought a lot of concerns to their attention and so they spent the next year working with the board, planning staff, and the community to address those concerns. They revised the text and presented it to staff in June 2022. The staff report states it meets all the review criteria. She commented that the North Fork area is a unique area, and it is much more challenging because it is remote, it is the most rural district in Flathead County, it's off the grid. She spoke about the lack of utilities, the wildlife, recreational opportunities, and tourists. They have visitors that are surprised by the lack of utilities, and they are unfamiliar with the hazards and proximity of the wildlife and the impact it has on them as far as food storage, garbage etc. She spoke about fire dangers and growth as well as the remoteness of the area.

Jim Rittenberg, 1276 Long Bow Trail, is a member of the Middle Canyon Land Use Advisory Committee and thanked the board and staff for their input and time. He spoke of the challenges they face in the North Fork, which is the absence of use districts. Things like residential, business, industrial, agricultural uses all can occur in the North Fork use district. They focused on the definitions of uses and performance standards. They wanted them to be very specific and clear. They looked at conditional uses, performance standards, property rights, health, safety and general welfare for the community, metrics, lighting and water standards, wildfire mitigation, wildlife conflict, and economics. They value the rights of property owners and were very careful to protect those rights, while taking into consideration public health, safety and general welfare for the community. When they looked at property rights, they looked at both the property rights of somebody who is trying to have a use on their property but also looked at the property rights of neighbors and making sure that their property rights are not being impacted. They tried to balance and to incorporate what they feel meet the requirements of the Flathead County Growth Policy and the North Fork Neighborhood Plan, and to incorporate feedback from planning staff and the planning board. They were pleased with the staff report and read a statement from that. He thanked the community for the input, suggestions, and comments they provided stating they had a number of meetings with overwhelming support.

**BOARD
QUESTIONS**
10:54 PM

Stevens asked about the language regarding the water supply.

Holycross stated that in order to make sure the performance standards were tied to Montana law and the Flathead County Zoning Regulations, they researched various uses to find metrics that specifically applied to those uses. She explained the circular they referenced and stated they looked at the various agencies and what their requirements were.

That circular was put out by DEQ.

They put references in the text amendment so people would know where to look.

Stevens said the language was confusing and asked why the 150-foot setback.

Holycross said it was unchanged from the original language. The setbacks are existing. She also spoke about the variance process.

Stevens said variances have to meet all the criteria and elaborated.

Mack spoke to the variance process.

Don Sullivan, 17000 North Fork Road, said he was around when the original regulations were adopted. He stated the 150-foot setback was adopted because of the concern of visual intrusion from the property owner to the road and from the road to the property owner. The objective was to have new buildings be sufficiently far from the road, so they were not visible from the road. He remembered the 150-foot setback from the stream was a US Fish and Wildlife recommendation.

Stevens said they were taking away individual private property rights because they do not want to see it from the road. He felt that one size fits all often doesn't work.

Sullivan stated the original intent was to keep the rural character of the North Fork visually the way it was.

Holycross said the text amendment didn't change everything, specifically they focused on definitions and performance standards.

Stevens said he didn't agree with some of the package that was being presented.

Holycross said they worked on a particular set of issues and problems with the original zoning that has been in place for 25 years. She didn't understand what was done in the past and she didn't know how to address the things that they left alone.

Stevens said the point was that the regulations as written, in his opinion, does not have good rationale. They were taking away the individual private property rights of the guy that wants to put his house 90-feet from the road instead of 150-feet from the road. He spoke at length about private property rights.

Sullivan said the people that live in the North Fork have the right to have the North Fork scenic quality preserved. The setback has been in place for 30 years and he would hate to see it changed.

Holycross said there were multiple things that talk about retaining rural character. She spoke about the Growth Policy and the neighborhood plan and stated it was a balancing act. She thought that any metric has got some degree of subjectivity. There is a point where you draw a line and they tried hard to make sure they had metrics that made sense. There are setbacks in all the zoning districts.

Votapka suggested they do a comparison from the original and show the changes that were made.

The board, staff, and the applicants discussed rentals and the review process for such things as RV's, residences, tents etc.

**AGENCY
COMMENTS
11:15 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT
11:15 PM**

Don Sullivan, 17000 North Fork Road, spoke about the original regulations that were not changed in this update. He urged the board not to change the setbacks. He supports the text amendment because it supports property rights, promotes the health, safety, and general welfare, and it eliminates the confusion in the existing zoning. By clarifying the zoning regulations there will be less conflict.

Jack McFarland, 11012 Inside North Fork Road, spoke in favor of the proposal. He felt the rewrite balances the property rights and hopes the board supports the text amendment.

Karin Colby, 1190 Numa Peak Lane, is the mail carrier and spoke in favor of the proposal. She spoke about the road conditions, the unpermitted yoga retreat, the wildlife, an unpermitted work camp, and enforcement. She agreed with the amendments. She urged the board to approve the amendments.

Bill Smith, 12330 and 12340 North Fork Road, spoke in opposition of the amendment. He was concerned about the changes to property rights for people that own less than five acres and elaborated on that. He also spoke about home-based businesses and rentals.

Kenna Halsey, 14815 North Fork Road, spoke in favor of the amendment. She spoke about small lots and uses that affect their neighbors. They are trying to find a balance. They don't have a way to separate uses from use type. She

asked the board to consider the amendments and not change the things that were in the original document.

Richard Hildner, 350 Moose Creek, a member of the North Fork Land Use Advisory Committee, spoke in favor of the amendment. He asked the board to approve the amendment as presented.

**APPLICANT
REBUTTAL
11:35 PM**

Holycross wanted to add that in the Flathead County Zoning Regulations it lays out what the purpose and intent of each use districts are. They don't have the zoning uses and are trying to achieve the goals that are outlined in the Flathead County Zoning Regulations for uses by trying to use performance standards to achieve those things.

**STAFF
REBUTTAL
11:36 PM**

None

**BOARD
DISCUSSION
11:37 PM**

Stevens commented that the language was troublesome to him and read from the proposed language. He said he had a problem with the word 'adequate.' Who decides if it's adequate.

Breckenridge asked how Flathead County would enforce 'adequate.'

Mack agreed the office cannot enforce adequate.

Breckenridge commented that he would have liked to see the new proposal in a workshop setting.

Stevens agreed that he would like to see this in a workshop.

Nogal commented that several members of the board would really like to delve into the text but it's late. They have a terrific working document here that needed to be fine-tuned. They were on the cusp of something, and she was not comfortable with an up or down vote, which is where they were tonight. She asked staff what the procedure would be so they can discuss the amendments further and give it the justice it deserves.

Stevens spoke of the options the board had at this point. His preference was to forward it to the commissioners with a negative recommendation and include it in the Growth Policy update workshops like they did with the Whitefish donut. He would like to have Jeff Larsen be a part of the discussions because of his experience and insight with just what the regulations do to private property rights.

Mack stated they could include it in the text amendment updates instead of the Growth Policy update.

Holycross commented that they learned a lot last time, and whichever of those options the board was discussing that would provide them the opportunity to continue the work and learn and integrate and update, they would welcome the best way to achieve that.

Stevens said they had workshops with the Whitefish folks at the fairgrounds and a lot of people attended. That gave everybody an opportunity to be involved. He commented that it could be a text amendment workshop, the board doesn't have to decide which would work better tonight as far as a text amendment workshop or a Growth Policy update workshop.

Breckenridge said he wanted to make sure that it doesn't fall into some limbo.

Mack said that if the end result was that the text amendment gets denied by the commissioners, then they could withdraw the application and then the board could set up a workshop. If the board denies the application, the applicants can turn around tomorrow and withdraw the application with the idea that they want to set up a workshop, they won't actually get in front of the commissioners if they don't want to. The applicants can choose to withdraw before a motion is even made.

Breckenridge commented that the board could either table it or recommend denial. If they table it, they are right back where they were.

Nogal said she wanted to make sure they can get back to it.

Stevens said that if they table it, it will have to come back to a regular planning board meeting.

Mack stated that they were in board discussion at this point so they can't have a workshop or any more public comment. They could table it and think about it for a month, or they can make a motion to approve or deny right now.

The board and staff discussed at length what the best course of action would be as they want to get it to a point where they can have a workshop without it being on a regular meeting agenda.

Kenyon asked if the board could rescind the negative motion after they've held a workshop.

Mack said they need a new file, and they are trying to figure out how to get a new file. The board had public comment so they can't have workshops on this file anymore. It has to come to some sort of conclusion. To do that, it either has to be denied by the commissioners or the applicants have to pull it tonight.

Kenyon asked for clarification.

Mack said that file number FZTA-21-01 would go away and then we would set up a workshop for a later date with the planning board.

Rittenburg asked what sort of time frame they would be looking at if they were to pull it.

Stevens said it would be a while. He told the applicants to bear in mind that all the board does is forward a recommendation.

Holycross said they should just pull it and confirmed with Kenyon.

Mack stated that the board could recommend denial, but that doesn't mean the commissioners were going to deny it. So, if they want to take a chance at commissioners, they could do that too. If the commissioners deny it, then we are right back to workshops. It's going to be a while before we can get a workshop together anyway, but the applicants could make a good case and the commissioners could approve it.

Mack reiterated that if the applicants pull it now, it won't go to the commissioners, and they would have to wait for a workshop. But if they let the board vote and they vote negative, it's going to go to the commissioners, and they ultimately decide. If the applicants don't want to decide tonight, they could let the board vote and decide to pull it at a later date. Once this file is dead, they can come back for workshops. If this file is approved, then they don't need to workshop it.

Rittenburg commented that it sounded like it would be quite some time before they could workshop it so what would be the negative of sending it to the commissioners. At some point it may die one way or the other and they start again through workshops.

Lake stated that the commissioners could approve it, they don't have to take the board's recommendation.

Sullivan wanted to remind everyone that 30 years ago they were voted down by the planning board and they went to the commissioners anyway for the 20-acre zoning and they approved it. He recommended to the applicants that they allow the board to vote it down and take it to the commissioners.

Breckenridge commented that he appreciated the format, the applicants did a good job. He wished he could have the comparison from the old version to visually see the changes.

Stevens said the minutes from last year requested the visual changes and they were not submitted this time.

	The applicants decided to allow the board to vote on the text amendment.
MAIN MOTION TO ADOPT F.O.F. (FZTA-21-01) 12:01 AM	Nogal made a motion seconded by Breckenridge to adopt staff report FPMA-21-01 as findings-of fact.
BOARD DISCUSSION 12:01 AM	None
ROLL CALL TO ADOPT F.O.F. (FZTA-21-01) 12:02 AM	On a roll call vote the motion passed 5-1 with Jackson dissenting.
MAIN MOTION TO RECOMMEND APPROVAL (FZTA-21-01) 12:02 AM	Nogal made a motion seconded by Lake to adopt staff report FZTA-21-01 and recommend approval to the Board of County Commissioners.
BOARD DISCUSSION 12:03 AM	<p>Stevens clarified that what Nogal was saying was that they were going to vote on the positive recommendation to the county commissioners which may or may not garner majority support. If not, there would need to be another motion to forward a negative recommendation so they can get a majority vote.</p> <p>Mack said if they vote to not forward this recommendation, they will have no recommendation.</p>
WITHDRAW MAIN MOTION TO RECOMMEND APPROVAL (FZTA-21-01) 12:03 AM	Nogal withdrew her motion
MAIN MOTION TO RECOMMEND DENIAL (FZTA-21-01) 12:04 AM	Breckenridge made a motion seconded by Lake to adopt staff report FZTA-21-01 and recommend denial to the Board of County Commissioners.
ROLL CALL TO RECOMMEND DENIAL	On a roll call vote the motioned passed unanimously.

(FZTA-21-01)
12:04 AM

**BOARD
DISCUSSION**
12:04 AM

Stevens said the application will be forwarded to the county commissioners with a recommendation to deny it as it is. They may approve it. If they deny it, it's a dead file and the board fully intends to take this draft and/or any draft they might come up with, and in conjunction with either the process for text amendments or the process for the Growth Policy update, consider this draft or any other draft at that workshop so they can come up with an understandable proposal that may not have language that's confusing.

Kenyon asked for clarification.

Stevens explained that they are forwarding it with a recommendation to deny it, so it's a dead file. The board intends to take this draft or any other draft or information that the group wants to present to the board at a workshop which will either be with the text amendment process, or the Growth Policy update process.

OLD BUSINESS
12:07 AM

Mack handed out the proposed short-term rental text amendment that came from the meeting they had with the Board of Adjustment. The board can look it over and they will talk about it another time.

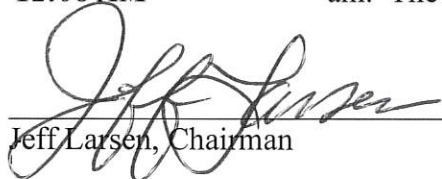
NEW BUSINESS:
12:07 AM

Mack gave them a copy of the workplan for FY23. He said to look it over and they would talk about it another time.

Metzger told the board members that Tyler Hartz has moved out of the county, so he no longer qualifies to be on the board. She will be advertising for his position.

ADJOURNMENT
12:08 AM

Meeting was adjourned on a motion made by Stevens at approximate 12:08 am. The next meeting will be held on September 7, 2022.



Jeff Larsen, Chairman



Mary Metzger, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 09/14/2022